



United States Department of Justice

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May 2, 2018

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Re: *Blankenship v. United States of America*, 5:18-cv-00591
Documents Relating to MSHA Disciplinary Matters Following the April 5, 2010
Upper Big Branch Mine Disaster

Dear Counsel:

As indicated in my April 20, 2018, correspondence, enclosed are additional records pertaining to disciplinary matters involving Mine Safety and Health (“MSHA”) officials in the wake of the April 5, 2010, Upper Big Branch mine disaster.

There are four sets of documents contained on a CD-R disk. The first two are privilege logs that were recently compiled in connection with pending federal civil litigation in the Southern District of West Virginia. It is my understanding that records were provided to the Civil Division of my office by the Department of Labor (“DOL”) in response to the United States’ request for records of officials who received disciplinary action following the April 5, 2010, Upper Big Branch mine disaster. Because the DOL has asserted deliberate process and attorney-client privileges with respect to the documents detailed in the logs, unfortunately, I am unable to provide you with these records at this time. The United States will, however, provide these records to you should the Court determine the asserted privileges do not apply. I suggest you file a motion with the Court for a determination of this issue.

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The third and fourth document sets are additional personnel records of these same MSHA officials and a small group of miscellaneous email and other records provided by the DOL in response to the United States' requests.

Finally, I am advised that the DOL is presently conducting another search of emails. I will forward to you any discoverable and non-privileged information that may come from this inquiry. I am advised that this search will take approximately 2-3 weeks.

Please feel free to contact me if you have any questions.

Sincerely,

MICHAEL B. STUART
United States Attorney


L. ANNA FORBES
Assistant United States Attorney

LAF/vld

cc: Fred B. Westfall, Jr., Assistant United States Attorney/SDWV

Enclosure